

CHARLES R. GREEN,	)	
	)	
Petitioner,	)	2: 10-CV-0898-JCM-RJJ
	)	
vs.	)	
	)	<b>ORDER</b>
WILLIAMS, et al,	)	
	)	
Respondents.	)	
	/	

The Antiterrorism and Effective Death Penalty Act (“AEDPA”), at 28 U.S.C. § 2254(d), provides the legal standard for the court’s consideration of this habeas petition:

(1) resulted in a decision that was contrary to, or involved an

1 unreasonable application of, clearly established Federal law, as  
2 determined by the Supreme Court of the United States; or

3 (2) resulted in a decision that was based on an unreasonable  
4 determination of the facts in light of the evidence presented in the  
5 State court proceeding.

6 The AEDPA “modified a federal habeas court’s role in reviewing state prisoner  
7 applications in order to prevent federal habeas ‘retrials’ and to ensure that state-court convictions are  
8 given effect to the extent possible under law.” *Bell v. Cone*, 535 U.S. 685, 693-694 (2002). A state  
9 court decision is contrary to clearly established Supreme Court precedent, within the meaning of 28  
10 U.S.C. § 2254, “if the state court applies a rule that contradicts the governing law set forth in [the  
11 Supreme Court’s] cases” or “if the state court confronts a set of facts that are materially  
12 indistinguishable from a decision of [the Supreme Court] and nevertheless arrives at a result  
13 different from [the Supreme Court’s] precedent.” *Lockyer v. Andrade*, 538 U.S. 63, 73 (2003)  
14 (quoting *Williams v. Taylor*, 529 U.S. 362, 405-406 (2000) and citing *Bell v. Cone*, 535 U.S. 685,  
694 (2002)).

15 A state court decision is an unreasonable application of clearly established Supreme  
16 Court precedent, within the meaning of 28 U.S.C. § 2254(d), “if the state court identifies the correct  
17 governing legal principle from [the Supreme Court’s] decisions but unreasonably applies that  
18 principle to the facts of the prisoner’s case.” *Lockyer v. Andrade*, 538 U.S. at 75 (quoting *Williams*,  
19 529 U.S. at 413). The “unreasonable application” clause requires the state court decision to be more  
20 than merely incorrect or erroneous; the state court’s application of clearly established federal law  
21 must be objectively unreasonable. *Id.* (quoting *Williams*, 529 U.S. at 409).

22 In determining whether a state court decision is contrary to, or an unreasonable  
23 application of federal law, this court looks to the state courts’ last reasoned decision. *See Ylst v.*  
24 *Nunnemaker*, 501 U.S. 797, 803-04 (1991); *Shackleford v. Hubbard*, 234 F.3d 1072, 1079 n.2 (9<sup>th</sup>  
25 Cir. 2000), *cert. denied*, 534 U.S. 944 (2001).

26 The United States Supreme Court, in *Tollett v. Henderson*, 411 U.S. 258, 93 S.Ct.

1 1602 (1973), held that when “a criminal defendant has solemnly admitted in open court that he is in  
2 fact guilty of the offense charged, he may not thereafter raise independent claims relating to the  
3 deprivation of constitutional rights that occurred prior to the entry of the guilty plea.” Thus, by  
4 pleading guilty, a defendant waives the right to a jury trial, to confront one’s accusers, to compel the  
5 attendance of witnesses, and generally to challenge the evidence that he committed the offense. *See*  
6 *Boykin*, 395 U.S. 238, 89 S.Ct. 1709 (1969). Typically, one who enters a valid guilty plea, cannot on  
7 habeas corpus challenge pre-plea constitutional violations. *Tollett*, 411 U.S. at 266-67, 93 S.Ct.  
8 1602 (1973); *see also Moran v. Godinez*, 57 F.3d 690, 700 (9th Cir.1994) (“As a general rule, one  
9 who voluntarily pleads guilty to a criminal charge may not subsequently seek federal habeas relief on  
10 the basis of pre-plea constitutional violations”). Such a petitioner may only contend that his guilty  
11 plea was not voluntary and intelligent (*see e.g., Hill v. Lockhart*, 474 U.S. 52, 56, 106 S.Ct. 366, 369  
12 (1985); *Boykin v. Alabama*, 395 U.S. 238, 242-43, 89 S.Ct. 1709, 1711-12 (1969)) or challenge the  
13 assistance of counsel under the Sixth Amendment. *See, e.g., McMann v. Richardson*, 397 U.S. 759,  
14 771, 90 S.Ct. 1441, 1449 (1970); *Tollett*, 411 U.S. at 267, 93 S.Ct. at 1608; *Hudson*, 760 F.2d at  
15 1030.

16 In the instant case, petitioner raises three grounds for relief, each of which concern  
17 events which occurred prior to the submission of petitioner’s guilty plea. Under the authorities  
18 discussed above, petitioner is precluded from raising these issues in a federal petition for writ of  
19 habeas corpus.

20 **IT IS THEREFORE ORDERED** that this petition for writ of habeas corpus is  
21 **DISMISSED** with prejudice for failure to state a claim upon which relief can be granted. The clerk  
22 of the court is directed to enter judgment accordingly and to close this case.

23  
24 DATED this 14th day of July, 2010.

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26   
UNITED STATES DISTRICT JUDGE